

Exhibit B

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UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

DAVID DEITZEL,

Plaintiff

v.

Civil Action

SPRINGFIELD TERMINAL RAILWAY

No.: 03-12560-RGS

COMPANY, and GUILDFORD RAIL

SYSTEMS,

Defendant

THE AUDIOVISUAL DEPOSITION OF PHILIP J. COLLINS,

a witness called on behalf of the Plaintiff, taken pursuant to the Massachusetts Rules of Civil Procedure, before Ellen Dubie, a Professional Court Reporter and Notary Public in and for the Commonwealth of Massachusetts, at the home of Philip J. Collins, 25 Bradford Street, Westford, Massachusetts, on FRIDAY, DECEMBER 2, 2005, commencing at 12:19 p.m.

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APPEARANCES

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RUDOLPH V. DE GEORGE, II, ESQUIRE

Barish & Rosenthal

Three Parkway, Suite 1320

1601 Cherry Street

Philadelphia, PA 19102

(215) 923-8900/FAX (215) 351-0593

On Behalf of the Plaintiff, David Deitzel.

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JOHN J. O'BRIEN, JR., ESQUIRE

O'Brien & von Rosenringe, P.C.

27 Mica Lane, 2nd Floor

Wellesley, MA 02491

(781) 239-9985/FAX (781) 239-3360

On Behalf of the Defendant,

Springfield Terminal Railway Company.

ALSO PRESENT:

Mr. Frank Dunn, Videographer

Dunn & Goudreau Court Reporting Service, Inc.

Mr. David Deitzel

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WITNESS

EXAMINATION BY

PAGE

Philip J. Collins

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(By Mr. De George)

7, 62

(By Mr. O'Brien)

35, 63

EXHIBITS

NO.

DESCRIPTION

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Letter

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PROCEEDINGS

(Exhibit No. 1 marked for identification.)

MR. DE GEORGE: This is Rudolph De George for

the plaintiff in this matter. We're at the home of P.J.

Collins, who is a person who was identified in the

defendant's automatic disclosures as a person with

discoverable information in this case, a person who was

mentioned in the plaintiff's answers to interrogatories

as a person who has knowledge both of the accident and

of the condition of the switch prior to the accident.

Mr. Collins's name was also testified to — mentioned by

Mr. Deitzel in his deposition as someone who has

knowledge of the condition of the switch before the

accident and of circumstances surrounding the accident

in this case.

The defendant filed a motion for summary

judgment on or about November 14, 2005, and I had

asked for an extension of time with the hope of taking

the deposition of P.J. Collins based on the information

I believe that he had available about the switch in the

incident. I did contact Mr. O'Brien, and Mr. O'Brien

was kind enough to contact Mr. Collins and forward me a

letter advising of Mr. Collins' physical condition.

It's your letter dated November 21, 2005. Jack, it's

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01 A. I was told that there was no other engineer, and I
 02 could call it a day, go home, nobody else to relieve me.
 03 Q. And is that what you did?
 04 A. That's exactly what I did.
 05 Q. The switch that Mr. Deitzel was attempting to throw
 06 March 12, 2001, were you familiar with that switch prior
 07 to the accident?
 08 MR. O'BRIEN: Object, form.
 09 A. Yes, I was.
 10 Q. How were you familiar with that switch?
 11 A. I was familiar with that switch because we've been
 12 having a lot of trouble with it out of alignment, which
 13 means you cannot throw it from one direction or another.
 14 MR. O'BRIEN: Move to strike.
 15 Q. For how -- when was -- how --
 16 MR. O'BRIEN: On the basis of opinion and
 17 materiality and relevancy.
 18 Q. How long before the accident dated March 12, 2001,
 19 had that switch been a problem?
 20 MR. O'BRIEN: Object as to form and opinion,
 21 relevance, and materiality.
 22 A. My opinion is it was over a year when I turned it
 23 in myself.
 24 Q. When you say you "turned it in," what do you mean

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01 MR. O'BRIEN: Object as to form, relevancy, and
 02 materiality. *OK*
 03 A. A minimum of three times.
 04 Q. Over how long a period of time prior to the
 05 accident?
 06 A. Six months.
 07 Q. Were you aware whether the track department made
 08 any repairs to the switch after you turned it in?
 09 A. After it was turned in -- it was a number of years
 10 later -- it was replaced.
 11 MR. O'BRIEN: Move to strike, nonresponse.
 12 Q. Was it replaced before or after Mr. Deitzel's
 13 accident?
 14 MR. O'BRIEN: Object as to materiality and
 15 relevancy.
 16 A. After.
 17 Q. Did you observe any replacement or repairs to that
 18 switch before Mr. Deitzel got hurt?
 19 MR. O'BRIEN: Object as to form.
 20 A. No, I didn't.
 21 Q. Did you ever speak to Mr. Towle about Mr. Deitzel's
 22 accident?
 23 A. Yes, I did.
 24 Q. When did you speak to him?

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01 by that?
 02 A. I mean, I called in the appropriate people which
 03 would be the track department, and I'm concerned with my
 04 other half of the crew that the conductor's going to get
 05 hurt. There's fighting with that switch.
 06 Q. Do you remember --
 07 MR. O'BRIEN: Move to strike. Go ahead.
 08 Q. Do you remember who you spoke to at the track
 09 department about the switch?
 10 A. No, I don't.
 11 Q. You said that there were some conductors that were
 12 having difficulties with the switch. Do you know the
 13 names of any of those conductors?
 14 A. Not at this -- I don't remember.
 15 MR. O'BRIEN: Object to form.
 16 THE WITNESS: I'm sorry, I'm sorry.
 17 MR. O'BRIEN: Go ahead. Your answer is no?
 18 A. No, I don't. I don't remember.
 19 Q. Did you have to fill out any paperwork in order to
 20 turn in the switch?
 21 A. No, just a verbal report.
 22 Q. How many times had you made the track department
 23 aware, prior to the accident, of difficulty throwing the
 24 switch?

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01 A. The year he retired. It was 2005 -- 2003 he called
 02 me at Ayer, and I had a brief conversation with him. He
 03 was asking me if I remembered.
 04 MR. O'BRIEN: Let's wait for the question, sir, all
 05 right, before you say -- have you answered counsel's
 06 question?
 07 THE WITNESS: I don't know.
 08 Q. Do you recall what he said to you and what you said
 09 to him?
 10 MR. O'BRIEN: My objection, on hearsay and
 11 relevancy and materiality.
 12 A. Yes, he asked me if I remembered David Deitzel
 13 getting hurt in Nashua, and I said yes.
 14 Q. And did he ask you anything else?
 15 MR. O'BRIEN: Objection, relevancy and materiality,
 16 hearsay.
 17 A. Yes, he asked me what month and what day and I told
 18 him.
 19 Q. What did you tell him?
 20 A. I told him it was in March, on the day he set us
 21 back two hours on account of snow.
 22 Q. Do you recall anything else about the conversation
 23 with Mr. Towle other than what you've mentioned already?
 24 A. Mr. Towle said he --